



THE CITY OF NEW YORK  
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**BY ECF**

Honorable Eric Komitee  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: James Benbow v. Police Officer Feeley, et al.,  
17-CV-6457 (EK) (LB)

Your Honor:

I represent defendants City of New York, Feeley, Rosiello, Anderson, Diab, Minucci, and Mitchell in the above-referenced matter. In light of the Supreme Court's recent holding in Thompson v. Clark, 2022 U.S. LEXIS 1885 (2022), defendants write to respectfully withdraw the portion of their motion for summary judgment which contends that plaintiff has not satisfied the favorable termination element of his malicious prosecution claim (ECF No. 103-2 at 11-15). Defendants, however, maintain that plaintiff's malicious prosecution claim should be dismissed because: (1) there was probable cause to prosecute plaintiff; and (2) plaintiff has failed to establish the element of malice (Id. at 15-17).

Defendants thank the Court for its time and consideration.

Respectfully submitted,

/s/ *Zachary Kalmbach*

Zachary Kalmbach  
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cc: **Via ECF**  
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